

Water Resources Programs

contrary to the express orders of his employer and without his knowledge.

• (5:30 p.m.)

I do not think that Motion No. 22 needs any clarification on my part. That is a consequential motion to change a reference.

Mr. G. H. Aiken (Parry Sound-Muskoka): Mr. Speaker, I rise to take part in the debate on these amendments, not to oppose them but to point out the terrible confusion that has arisen in the handling of the bill and particularly the amendments we are now about to consider. I say that because if one begins trying to figure out what has happened to clause 20, one sees what a mess, if one will accept that language, has resulted so far from the way the bill has been promoted and prosecuted in the House.

In the first place, the government was forced to bring in a supplementary Governor General's recommendation in connection with capital costs. When these provisions were brought before the Standing Committee they were ruled out of order, even though they were government amendments, on the ground that a Governor General's recommendation was required. Therefore, although these recommendations before the committee were proposed by the government, they were not proceeded with. The bill was reported and reprinted without having in it the amendments we are concerned about. It was then necessary to bring in a new Governor General's warrant with respect to capital costs and these provisions were included in the bill.

Similarly, those parts of the bill dealing with phosphates were not included in the original bill. They were brought before the committee and accepted by the committee and these clauses in their present form were recommended and reported by the committee. It is the same with regard to the amendments we are now considering. Those amendments were not in the original bill as presented to the House. The government included them in proposed amendments which it placed before the Standing Committee. Some of us on the Standing Committee felt that the proposed amendments were not in a satisfactory form. There were almost illegal in that they placed an unconscionable burden on a person being prosecuted. We tried to bring in amendments regarding this matter, and they concerned motion No. 21.

In its original form the clause would have held a person responsible for the acts of an employee or agent even if the agent or

[Mr. Greene.]

employee was never identified. It was felt that this was an undue burden to place on anybody, because if the employee or agent was not identified, how on earth could any person be held responsible for the acts of that employee or agent? In any event, the amendment I proposed was defeated in the committee. Yet strangely enough, after that amendment had been defeated the committee decided to wipe out another portion of the clause. That is to say, the series of amendments that we are dealing with under the heading "Seizure" were completely eliminated from the bill. Now, with some changes, those parts are being brought back by the government.

I never considered myself a Philadelphia lawyer, yet even a Muskoka lawyer has trouble sorting out where we now are. We have seen the original bill, the government amendments to the bill as reported and the amendments that have been considered in the House. I think I have been able to sort these amendments out in my mind. I nevertheless feel that the government has adopted an inept procedure in its handling of the bill. I merely wanted to make that comment before speaking to Motion No. 21.

I recognize that Motion No. 21, which is sponsored by the government, will improve the original clause of the bill. Actually, it goes a considerable way toward meeting the objection that I raised with regard to clause 28 of the bill as it now appears, which provides: "In a prosecution for an offence under this act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence."

As I say, that wording violates basic principles of justice and the Bill of Rights, and I am glad to see that in the proposed amendment there is wording which will permit an honest person who has been the victim of circumstance to prove that the offence was not committed with his knowledge and consent. I submit that the addition of the words "unless the accused establishes that the offence was committed without his knowledge or consent and that he exercised all due diligence to prevent its commission" constitutes an improvement to that part of the bill.

Another clause of the bill bothers me. It relates to the question of seizure and to new clause 20.